

BUILDING CODE PUT THROUGH

JUST FORTY VOTES NEEDED FOR THE HOLLOW TILERS.

Alderman Baldwin is No. 40. Coming into the Vineyard at the Eleventh Hour—Gruber's Alderman Votes With Tammany—To Call a Mass Meeting.

The new building code as framed by the majority of the building committee of the Board of Aldermen and declared by the minority of the committee to be drawn expressly to give a monopoly of the fireproofing business of the city to the hollow tile manufacturers at the expense of the concrete men and the public was forced through at yesterday's meeting of the board without a vote to spare. It required a majority vote, and out of the 79 votes in the board just 40 were obtained.

Up to the moment the meeting was called to order it was doubtful if the fortieth vote could be acquired. Alderman Kennelly, the chairman of the building committee, told Little Tim Sullivan, who was to preside because President McGowan is acting Mayor, that with a little delay in opening the meeting he was sure that he could get No. 40. Little Tim has been professing in favor of letting the matter go over until after election, but Kennelly insisted, and Little Tim promised that he would help him to push the majority report through.

Mr. Kennelly, who is Charles F. Murphy's Alderman and who has been fighting for the hollow tile section of the new code, made good. He won over No. 40 Thomas F. Baldwin of the Sixteenth district, a Tammany man, who had hitherto refused to commit himself. When Baldwin was elected two years ago he was a follower of Frank Lantry, then the leader of the district, but Lantry fell out with Murphy and was defeated for the leadership at the last primaries, and Baldwin has not known since then just how he stood with the organization. It was said yesterday that he is to be renominated this fall and that he got this assurance from Kennelly yesterday after Kennelly had talked with "some one" over the telephone for several minutes.

The new code is a deal of good in the committee room about this sort of thing. Murphy was said to have refused a recommendation to Alderman Mulligan, who was elected as an Independent League candidate. Another report was that Borough President Greaser had offered to give his vote and to deliver those of Flanagan and Carter, two of his Aldermen, if Murphy would recognize him instead of Joe Cassidy as the leader in Queens. The rumors stated that Kennelly had put this offer up to Murphy, but that the Tammany leader, however, had refused.

Yesterday's gathering of the board was the liveliest the Aldermen have held since the day when the vote was taken on the Westchester and Port Chester franchises, after which vote the Legislature took away from the board its power to grant or hold up franchises. Every member of the board was present excepting President McGowan. Many of them broke in on their vacations to respond to the letters which had been sent to them insisting on their attendance and for over an hour before the time for the starting of the meeting the committee room was filled with a buzzing crowd guessing whether or not Kennelly could turn the trick.

In the meeting itself there was nearly three hours of talk. The speeches all tended to one point. It was a fight between the concrete interests and the hollow tile interests. The concrete men, led by Alderman Doull, declared that the majority code would give all the fireproofing business of the city to the National Fireproofing Company, of which Grand Sachem Dan Conahay, a general counsel, while the supporters of the tiling interests declared that all that the majority code provided for was to put tiling on a parity with concrete. Some of them also charged that when the old code was drawn twelve years ago it had been so drafted that the Roebeling Construction Company, with which young Dick Croker is connected, was able to outbid all competitors for fireproofing.

There were a few idle during the debate. Once Alderman Gunther, the Republican leader, said that Kennelly had promised to insert some amendments in the code, but had failed to do so and "willfully lied to me."

"That's enough of that kind of talk," Little Tim admonished; "if you want to use language like that go outside and do it. I won't stand for it here."

"Well, it's true that he did lie to me," said Gunther as he fell back into his seat. Another skirmish happened when after a motion made by Alderman Doull to substitute the minority report for the majority report had been defeated by 40 votes to 37 Kennelly moved to adopt the majority report and at the same time moved the previous question.

Doull at once jumped to his feet and protested. "Why, Mr. Chairman," he shouted, "you promised me that when the majority resolution came up I should have an opportunity to discuss it, and are you going to allow me to be shut off like this?"

"No, what I said was that you could have all the time you wanted to explain your vote on the roll call," replied Little Tim.

"That wasn't what you promised; you said I should have an opportunity to speak against the majority report on its introduction."

Little Tim shut Doull off by ordering the clerk to proceed with the roll call, and when Doull's name was reached he started in to berate Little Tim. "I was promised," he said, "that I should have an opportunity to discuss this report after its reading, and when such a promise was made I think that the chairman of this board should have the decency to—"

TURMOIL ON ELLIS ISLAND

DETAINED ORATOR KICKS IT UP AT BREAKFAST.

There Are 700 of the Detained New and One of the Watchmen Has to Draw a Pistol to Restore Quiet—Inspector Hit in the Eye on a German Ship.

Alexander Redmew, a Russian Jew who speaks Yiddish chiefly but also understands Russian, arrived here on June 30 by the White Star liner Oceanic and was held at Ellis Island because he had no money, was not a mechanic and was deemed likely to become a public charge. A story was circulated by his friends on the East Side that he was a doctor and that his father was a Colonel in the Russian army. He did not profess to be a physician when he was catechized by an inspector, and later when he was ordered deported by a board of special inquiry he put up no defense.

There are at the island now about 700 detained immigrants, including those who have been ordered deported. One of the divisions of the detained, including Redmew, was at breakfast yesterday when Redmew got up on a table and began haranguing the immigrants, nearly all of whom are Russian Jews. There was presently an uproar, which after five minutes was suppressed by several watchmen, one of whom when he was close pressed drew a revolver and ordered everybody to behave. He says he did not point the revolver at anybody in particular. It was merely a necessary show of force, and it was effective. The dining room became composed.

Redmew was reported to have declared that he did not get enough to eat and that he had been treated badly. He was called before Commissioner Williams late yesterday afternoon and in the presence of Assistant Commissioner Uhl, Supt. Dobler and Chief Clerk Sherman, a Yiddish interpreter put the annexed questions and got the answers that follow from Redmew:

Q. Have you been treated badly? A. No. Q. Have you had all you wanted to eat? A. I have received everything. Q. Have you any complaint to make of any kind? A. Yes. The watchman this morning drew a revolver as he came into the detention room and pointed it at me. It was developed by further questioning that Redmew had tried to stir up the detained immigrants to resent their detention. Under the circumstances Commissioner Williams decided to put him on record as above merely because of assertions of some of his friends who were permitted to pass through Ellis Island some time ago and become residents of the United States that he had been badly treated.

There was a scuffle aboard the North German Lloyd steamship Kronprinzessin Cecilie just before she sailed yesterday morning from her Hoboken pier between some of the immigration inspectors and some of the stewards of the ship. The inspectors had brought over from Ellis Island early in the morning sixty-seven steerage passengers who had been ordered deported. Most of them were Russian Jews and Italians. Some complained to the stewards that they had been badly treated by the inspectors, and some of the stewards showed decided sympathy for the deported and handled the inspectors Klein and Weber roughly. The inspectors left the ship and appealed to the police. The ship's officers lined up the stewards so that Klein could pick out the man who had assaulted him. Klein pointed to Rudolph Muller, who declared that he was not the man and thereupon hit Klein. Muller was held by a United States Commissioner for assault.

Commissioner Williams took the midnight train for Washington to talk with his superiors in the Department of Commerce and Labor about affairs of the bureau. He will return for duty tomorrow morning.

The Commissioner said yesterday that he had no rigid rule about the money that an immigrant should have to let in. Canada had a hard and fast rule that each immigrant must have at least \$25. Mr. Williams thought that was a good standard for those who were bound for far away places and were without occupation, but he would not apply the rule to able bodied persons, particularly those with trades or professions. But he said he intended to enforce the law regardless of clamor. Only those who ought to go back would be sent back, and all would have a fair trial before sentenced to deportation. There would always be something doing at Ellis Island; it would not be an inlet for the undesirable, and religion would never be allowed to be a factor in deciding cases. If deported immigrants happened to be Russian Jews he could not help it any more than he could if they happened to be Presbyterians or Methodists. If they were barred or admitted it would not be on account of their race or religion.

SAY THERE WAS A PLOT TO KILL. Doctor and Wife of Banker He Shot Held on Murder Charge.

WATERBURY, Ill., July 13.—Evidence that J. B. Sawyer, the Crescent City banker, was slain as the result of a plot when he confronted his wife and Dr. W. R. Miller in his home was gathered to-day by State Attorney J. P. Fallisaid and Will Sawyer, brother of the victim.

They have gone over the situation carefully," said State Attorney Fallisaid, "and I am convinced that the killing was premeditated. I have four witnesses whose testimony bears this out. I intend to call a special Grand Jury soon. The regular Grand Jury does not convene until November."

Those now under arrest are Dr. W. R. Miller, whose name has been linked with Mrs. Sawyer's jury with murder; Mrs. Lucy Sawyer, widow of the victim of the shooting, held on the charge of being an accessory; John C. Grunden, her father, who was sitting in his room when the shooting occurred, held as possible accessory and witness; Ira Grunden, brother of Mrs. Sawyer.

Behind the scenes with Fifth Avenue comfort on the deck of the land side—A machine of the hotel only by the Hotel Nassau at Long Beach.

Bill to Let Some Women Vote. NEW HAVEN, July 13.—Senator Blakeslee of New Haven this afternoon moved the passage of the bill giving the right to vote at municipal elections to women who own property. The vote stood 30 to 5 in favor of the passage of the bill. There were ten absentees. The bill was transmitted to the House for concurrent action.

A bill to allow women to vote on the liquor license question was rejected in the Senate.

GIRL'S DEATH A MYSTERY.

Young Man With Whom She Went Boating Cannot Be Found.

KALAMAZOO, Mich., July 13.—Failure to find the body of Claude Hunt, the young man who accompanied Miss Mamie Davey of Chicago on her fatal boat ride on Klinger Lake Monday night, coupled with the statement of physicians that no water was found in the lungs of the young woman and that death probably was not due to drowning, gives strength to the belief that Hunt is not dead.

The lake has been thoroughly dragged. The police do not believe that the young woman was killed, but many others are insistent upon an investigation.

Miss Davey was 22 years old. She was not mentally strong, it is said, as the result of an operation two years ago, and for a time she was confined in a sanitarium. Because of her condition she was brought to Klinger Lake to spend the summer.

On Monday afternoon she asked Claude Hunt to take her on a boat ride. Gordon Wall, who owns a boat livery, said to-day that Hunt wanted to hire a boat from him but was refused because he was under the influence of liquor. He later got a private boat and the couple went on the lake.

Several hours later Latham Warren of Chicago out in a launch discovered the body of the girl floating in the water. Near by the boat that had been used by the couple was anchored. There was no water in the boat nor evidence of a struggle.

Some believe that the girl determined to carry out her threat to commit suicide, often made since she has been at the lake, jumped overboard and that Hunt jumped in to save her and was drowned.

Others hearing the physician's report that there was no water in the lungs and Wall's story that Hunt had been drinking believe that the girl was frightened and jumped overboard and that Hunt either went in after her or became alarmed, escaped to the shore and disappeared. Still others believe there was foul play. Hunt lived with an uncle on a farm near Klinger Lake.

NEW SUTTON CASE WITNESS. Another Chauffeur Saw Sutton and Adams About to Fight.

ANNAPOLIS, July 13.—Another witness in the Sutton matter has been found in the person of Edward Griffith, who drove a party of marine officers to the camp on the night of October 12, 1907, just before the automobile with Owen Sutton, Adams, Roelker and Utley came over, and who saw a part of the fight between Sutton and Adams.

Griffith was not before the first board of investigation or the Grand Jury, so that his contribution is new. Griffith said to-night that he was chauffeur for R. G. Chaney at the time and drove a party of marine officers, including Lieut. Potts, to the camp just before the other crowd arrived. As he went back toward Annapolis, Griffith said, he saw Sutton and Adams. Both had their coats off and were conducting themselves as if they were about to fight. He neither saw nor heard anything which indicated that Sutton was forcing an argument. He heard no shots.

Owens also made an additional statement this evening. He said from what he heard and saw there was every indication of a plan to get Sutton and make him fight. "Of course," he said, "I do not mean to say that there was a plan to shoot him, because I do not know anything about that, but everything looked like there was a plan to get Sutton."

MAN HUNT NEAR ARDSEY. Two Days Search Brings in Alleged Barn Burner as a Prisoner.

ARDSEY, July 13.—After a search lasting two days and an exciting chase through the darkness George Butler, aged 55 years, no home, was captured to-night one mile north of this village in the woods east of Woodlands Lake by Irving Brandrick and James Yorston.

Butler is suspected of having had something to do with the firing of the large dairy building north of here opposite the Woodlands Lake Hotel, on the old Cystine estate, at present owned by P. Morgan and leased to John Brandrick for dairy purposes, which was burned to the ground last Saturday night.

For the last six months and up to a week ago Butler was employed by John Brandrick to take care of cows and do other dairy work. After a series of quarrels between the elder Brandrick and Butler, Butler was discharged. By the time he was discharged he was armed with a revolver and a knife. Butler left, making threats against Brandrick, and was seen again around the place until Saturday night a few minutes before the fire was discovered, when he was recognized at two different places by Policemen Thomas Eaton.

Butler was recognized at the fire by Irving Brandrick, son of John Brandrick and Irving carried on a conversation with him. Shortly afterward Butler mysteriously disappeared in the darkness. Two days later he was seen near the Brandrick house. After a sprint through the woods in the darkness Irving Brandrick and Yorston overtook Butler and overpowered him. He was taken to the Ardsey lockup and a hearing to-night before Judge Glover he was remanded for further hearing.

FIRE NEXT TO THEATRE. Audience Didn't Know It, for the Doors Were Hastily Closed.

A short time before the matinee at Keith & Proctor's Fifth Avenue came to an end yesterday afternoon a fire was discovered next door on the second floor of the four story building on the northwest corner of Broadway and Twenty-eighth street.

The fire started in the office of the one of the Bamber Magie Lingerie and Novelty Company, on the second floor of 1198 Broadway, and did about \$500 damage.

Robert Win, the manager of Keith & Proctor's, had the doors of the theatre closed. No smoke got inside and the audience did not know that there was a fire in the neighborhood. By the time they emerged the fire was out and the firemen had gone away, so they remained in ignorance.

NEWS OF THE HALF MOON. She Will Be Manned by Men from the Dutch Battleship Utrecht.

R. M. van Swinderen, Minister of Foreign Affairs in the Netherlands, arrived yesterday by the Holland-America steamship Potendam with pictures of the Dutch duplicate of the Half Moon, Henry Hudson's ship that discovered things in this neighborhood.

The commander of the new Half Moon, Capt. Baron, will come with her aboard the freighter Steadfast, due here on July 21, and put in her spare and otherwise fit her for her trip up the Hudson.

The Dutch battleship Utrecht will be along later and Capt. Baron will select a crew for the Half Moon from the Utrecht.

NATIONALISTS TAKE THEHERAN

SHAH'S TROOPS CANNONADING THEM IN THE STREETS.

The Shah Himself, at His Summer Palace, Threatens to Besiege the City—Persian Constitutionalists State a March on His Army—Foreigners Are Safe.

Special Cable Despatch to THE SUN. TEHRAN, July 13.—The Nationalists under Sipahdar, and the Bakhtiari tribesmen under Sardar Assad entered the city to-day. The Cosacks were in occupation of the Central Square, and about that region fighting proceeded vigorously.

The northern part of the city was within a short time entirely in the hands of the Nationalists, who kept excellent order. Sipahdar and Sardar Assad occupied the Mellis (Parliament) building.

Many of the Shah's soldiers and the Cosacks joined the Nationalists. The populace is enthusiastically encouraging the Nationalist troops.

Firing continued around the foreign legations up to 1:30 o'clock in the afternoon, but Europeans were not in danger except from stray bullets. The Russian and British banks were not molested.

The success of the insurgents is due to a well concealed night march. Leaving a small force to keep the Shah's troops busy at a point where there had been skirmishing for three days past, the main united body under Sipahdar and Sardar Assad, numbering about 3,000 men, made a detour and took up their position near El Burs Mountain, whence they marched on the capital, entering the three northern gates early in the morning.

Armed roughs who defended the Yusuf Abad Gate, fired a few shots and then ran. Soldiers defended the Doulet Abad Gate, but after a short resistance three of them were killed and the others surrendered.

The Nationalists found the bulk of the population friendly, and they astonished the Shah's soldiers by merely disarming, not even arresting them. There were very few exceptions to this lenient treatment, but a small number who resisted were shot.

Only the Persian Cosacks seriously opposed the Nationalists. They held Gun Square and the Cosack barracks, and this evening are using artillery against the revolutionists. A noisy cannonading is going on at the time this despatch is sent. The result is not yet known.

Sipahdar, as Governor of Gilan, is taking the foremost part in the direction of affairs. He has summoned the ex-members of the Mellis with a view of reopening Parliament. He has also sent a note to the legations informing them that the city is now in the hands of the Nationalists, who only demand a real constitution instead of a sham one. He guarantees the safety of the lives and property of foreigners.

All the leading Nationalists, and these include many of the best class of citizens, seem to be doing their utmost to avoid interference with foreign interests, and are seeking to avert anything that would justify foreign intervention. There is considerable anti-Russian feeling among the populace, and the leaders will have difficulty in checking the mob spirit if the people once get out of hand.

The Russian flag flies from the residence of Gen. Liakhoff, commander of the Persian Cosacks, which adjoins Gun Square, and it must almost inevitably come under fire. Mme. Liakhoff bravely refuses to leave the house, as she is determined to remain near her husband.

The Russian troops who reached Kavin the other day are reported to be marching toward Teheran, but if Russia's object is to protect foreigners their intervention will not be needed.

The Shah apparently remains as yet at his summer palace, Sulistabad, to which place some of his troops are reported to be marching along the Kavir road with guns and ammunition. It is stated to-night that the Shah threatens to besiege the city, which could not long withstand a well conducted investment, owing to lack of provisions.

The trouble in Persia, which is now at its climax, began when the Shah showed his disinclination to uphold the constitution which was granted on January 1, 1907. At one time the Shah went so far as to withdraw the constitution, and this caused great disquietude throughout the country. In 1908 a great part of the country broke out in insurrection and Tabriz fell into the hands of the Nationalists.

With these conditions in the northern section of his kingdom the Bakhtiari tribesmen of the south arose and about six months ago captured Isfahan, a little over 200 miles south of Teheran. The tribesmen not long after began their march on the capital.

Great Britain and Russia have urged the Shah to summon a representative assembly and stop the condition of anarchy. Recently he consented to do so. Russia has despatched an expedition into Persia from Baku for the protection of foreigners. This force is now eighty-six miles from Teheran.

SAYS HE WAS NOT STOWAWAY. Excluded Superstitious Man From the Antonio Lopez Appeals.

Francisco d'Amato, whom Commissioner of Immigration Williams ordered deported, gained a temporary victory yesterday when Judge Hand of the United States District Court granted his application for a hearing by the court and directed that d'Amato be held pending the court's final decision.

Commissioner Williams held that d'Amato, who arrived here on June 10 on the Spanish liner Antonio Lopez, which ran aground off Fire Island, was a stowaway because his name did not appear on the ship's manifest. According to Commissioner Williams' interpretation of the immigration laws stowaways must be summarily excluded. d'Amato denies in his petition that he is a stowaway. He declares that he paid for his passage and ate and slept with the other passengers. He adds that he is not responsible for the absence of his name from the vessel's manifest. He has a brother, Lorenzo, living at 510 Metropolitan avenue, Brooklyn, who is willing to become responsible for him if the authorities will let him to remain here.

Genial crystal gazer explains, the cool kind that never mist, at Spencer's, 31 Maiden Lane.

SHEPPARD KNAPP ESTATE.

One of the Daughters Sues Her Mother for an Accounting.

Mrs. Henrietta Emley, a daughter of the late Shepard Knapp, applied in the Surrogate's Court yesterday for an accounting of her father's estate, naming her mother, who became executrix in 1906, as defendant. Mrs. Emley says that although she joined with her two sisters, Mrs. Edward B. Hoiser and Mrs. Edward D. Tucker, in turning over the income of her share of the estate to her mother because it was represented that Mrs. Knapp did not have enough to live on, she has a right to know what is being done with the estate, and that it is time for an accounting.

It is alleged by Mrs. Emley, whose husband, J. Noble Emley, is her lawyer, that her brother, Hiram M. Knapp, president of the Shepard Knapp Company, and her brother-in-law, Edward B. Hoiser, treasurer of the company, have secured control of the stock of the concern on terms that should be looked into. The hearing was adjourned to July 27.

ROGHI CAPTURED FEB. Capital of Sultan Mulai Haflid in the Hands of Moroccan Rebels.

Special Cable Despatch to THE SUN. MADRID, July 13.—A Tangier despatch states the Roghi, or Moorish pretender, stormed Fez and captured the city after severe fighting on July 8.

The fate of the Sultan, Mulai Haflid, is unknown, but the palace was surrounded by the Roghi's troops.

There are two or three versions of the affair. According to one there was fierce fighting in the streets and many Jews were massacred. Wealthy Moors are fleeing to Mequines.

The reports come from native sources and the Government is unable to either confirm or deny them.

STH AVE. LOAFERS JAILED. Eighty-two Lunch Hour Loiterers Spend a "Day" in Cells.

Eighty-two Fifth avenue sidewalk loiterers were fined \$1 each in the Jefferson Market court yesterday by Magistrate Cornell. They have been arrested before in batches of from fifty to 150, but this is the first time a fine has been imposed. None of the eighty-two paid, preferring to remain in jail until 4 o'clock.

The arrests were the result of complaints made to the Police Commissioner by storekeepers in Fifth avenue between Sixteenth and Eighteenth streets that during the noon lunch hour the streets in front of their places of business were almost impassable and in a filthy condition.

POPPED BY WIRELESS. But Late, for Hattie Lorraine Had Lost Her Heart on Shipboard.

Miss Hattie Lorraine, an actress who has appeared here, arrived yesterday by the North German Lloyd liner Kaiser Wilhelm der Grosse. She said that on the way to Europe she had received an offer of marriage which she had declined. On her arrival in London she was besieged by another admirer, a real Duke, whom she also disappointed. On the way back by the Kaiser she had a wireless proposal, the first ever, which she also refused to consider, as she had already engaged herself to a gentleman (name and title, if any, refused) who had popped on the way from Cherbourg. She would not divulge the name of the ship news reporter who proposed at the pier.

MAY CALL A SPECIAL SESSION. Gov. Johnson Wants Action on Income Tax and "Pork Barrel" Bill.

MINNEAPOLIS, July 13.—A special session of the Legislature probably will be called by Gov. Johnson to take action on the income tax which is being urged by President Taft and to discuss the "pork barrel" bill recently declared unconstitutional by the Supreme Court.

Gov. Johnson has issued a statement in answer to inquiries to the effect that he has been in consultation with members of the Legislature relative to the income tax proposition and that his opinion is that Minnesota will act favorably upon it.

The Governor has not yet formally issued the call. At the executive office Private Secretary Frank A. Day said that the law of conditions in Minnesota a special session this winter is the logical thing.

\$535 FOR A THOMAS CAT. Chicago Woman the Happy Buyer of Rob Roy II, London Prize Winner.

Special Cable Despatch to THE SUN. LONDON, July 13.—What is believed to be the highest price ever paid here for a domestic cat, namely, \$535, was given by Mrs. Lynas of Chicago for Rob Roy II, England's champion male chinchilla. Persia, the winner of numerous prizes.

The animal will be sent to the United States on the steamer Majestic.

HANG CHINESE BY THE QUEUE. Boys Take Revenge for Refusal to Deliver Wash on Credit.

SAN FRANCISCO, July 13.—Some Oakland high school boys on a vacation in the Russian River country, took revenge on Hop Lee, a Chinese laundryman, because he refused to deliver their wash without pay.

The boys seized the Chinese last night and having bound his arms and legs hanged him by his queue to a railroad trestle. He was found by a fisherman early this morning swinging in midair. His scalp was strained, but he sustained no other damage.

Mrs. Donovan Dies of Poisoning. Mrs. Katherine Donovan, whose husband, Frank Donovan, is a member of the contracting firm of Frank Donovan & Sons, at 600 Union street, Brooklyn, was found dead in her bed last evening at her home, 996 Carroll street, Brooklyn. Death was due to poisoning, according to Dr. Frank B. Cross of 141 Seventh avenue, who was called in, and the police theory is that Mrs. Donovan committed suicide. She had been ill for some time, and despondency was thought to be the cause of her act. Besides her husband she leaves a son, James, who is 14 years old.

Masher Sent to the Workhouse. Two young men who had annoyed girls were in the night court last night. Magistrate Corrigan sent Francis Condon to the workhouse and fined Patrick McGrath \$10. The girls, Miss Mary Walsh of 415 East Sixty-third street and Miss Lena Welch of 415 East Sixty-third street, said that the young men attempted to pull off Miss Condon's hair ribbon and made insulting remarks while the girls were walking through East Sixty-fourth street.

EVELYN THAW ON THE STAND

WILL TESTIFY AGAINST HER HUSBAND IF PERMITTED.

Question Goes Over for a Day to Enable the Justice to Settle a Point—Thaw Entirely Indifferent to Her in Court—Did He Threaten to Kill Her?

WHITE PLAINS, July 13.—Evelyn Nesbit Thaw was produced as a witness to-day in the insanity inquiry in the Supreme Court before Justice Mills. She was called by the lawyers for the State and was expected to testify as to an alleged threat of her husband to kill her. Objection was raised by Mr. Monchsauer, Thaw's counsel, and that part of her testimony was barred out.

The alleged threat was said to have been made at a time when Evelyn visited Thaw in the Matteawan asylum in company with her lawyer, Daniel O'Reilly, for the purpose of having a private talk with the prisoner on a matter which she would not reveal. Justice Mills held that her testimony was not competent because presumably the conversation was a confidential communication between husband and wife.

Roger Clark, Deputy Assistant Attorney-General, and District Attorney Winslow of Westchester spoke against the ruling of Justice Mills, holding that the testimony could be properly produced because Mr. O'Reilly was present as a third party.

Mr. Monchsauer raised the objection that Mr. O'Reilly was there not as counsel to Thaw, but as counsel to counsel to Thaw. Thaw was not present at the time, and Mr. O'Reilly had not been present at all, as he was acting as counsel to both parties and was not supposed to reveal anything that took place while he was in conference with his clients.

The lawyers for the State then said that A. Russell Peabody and not O'Reilly was acting for Thaw at the time, and Justice Mills told them that if they could prove this he would admit Mrs. Thaw's testimony, as O'Reilly would then be in a position to corroborate her.

Evelyn Thaw was examined on the point, but she was not sure whether O'Reilly was acting for both herself and her husband or only for her at the time of the visit to the Matteawan asylum.

District Attorney Winslow insisted that if Thaw made such a threat the public was entitled to know it. He said that the alleged threat was the most important evidence the State would have to offer against Thaw.

The question whether O'Reilly was acting for both Thaw and his wife will probably be settled to-morrow if O'Reilly can be found and put on the stand. The lawyers for the State placed in evidence a large number of letters to prove that O'Reilly was acting only for Mrs. Thaw, which were identified by her as being in Thaw's handwriting.

One of the reasons why Evelyn Thaw was put on the stand, it was said, was for the effect her presence was likely to produce on her husband. It was believed that when she came into the court room he might give vent to some kind of an outburst that would tend to prove his insanity and end the inquiry, but if this was the object, it was a failure. The State gave way to no outburst whatever; in fact he was very calm. When he had heard that she was to testify against him he merely said:

"It can do me no harm because she is on record as saying that she has known me for seven years and that I have always been sane."

As Evelyn Thaw entered the court room there was a bustle among the crowd of spectators, and many women stood up and "rubbered" to catch a glimpse of her. Thaw was talking to his doctor and lawyer and did not appear to notice the stir. He went on the stand at 4 o'clock and was there until after 4, but Thaw did not appear to give her any special attention and their glances did not meet directly at any time. It seemed plain to everybody in the court room that the final break between the pair had come and that Evelyn is doing all she can to aid the lawyers for the State to send her husband back to Matteawan.

Mrs. Thaw disclosed her real feeling in open court when Justice Mills directed her to reply to a question which she had refused to answer. He told her gently but firmly that it was her duty to answer, and she said:

"If I do not answer I suppose I shall be in contempt of court, won't I? Well, I don't want that just at present. I can't afford to be hiring lawyers. My husband won't even support me properly any more."

Before Mrs. Thaw left the stand Assistant District Attorney Clark helped her out a little by giving her a \$2.50 subpoena fee with instructions to be on hand again to-morrow morning, when she will be cross-examined.

Previous to the arrival of Evelyn Thaw in court Thaw's lawyer put about a dozen witnesses on the stand, all of whom have talked with the prisoner since her incarceration in Matteawan, and they testified that they regard his manner and conversation as rational. The witnesses had talked with Thaw on a variety of subjects, including religion, church work, history, railroads and transportation, the manufacture of steel, politics, baseball and prizefighting. Every witness before he left the stand was asked if Thaw had said anything about the murder of Stanford White or of his mission being to rescue young girls from being led astray. Very few had pointed to him on this subject.

The prosecution does not deny that Thaw is informed on many subjects, but they will endeavor to prove that he is a dangerous paranoiac and that his chief delusion is that he has been called by Providence to protect young girls and kill those who seduce them. They will try to show that he is not sane in any way with their downfall.

Mr. Clark for the State kept up such a rapid fire of objections to questions that Mr. Monchsauer finally shouted:

"Why don't you get a phonograph that will call out all the time the words 'I object'?"

"Why don't you frame up the proper questions?" was the rejoinder.

The Rev. Frederick Thompson Angell.